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TREATED LIKE TRASH

Juvenile Detention in New Orleans Before,
During, and After Hurricane Katrina

TUPL

JUVENILE JUSTICE PROJECT OF LOUISIANA

FOREWORD

Nothing in the Juvenile Justice Project of Louisiana (JJPL) mission or history¹ prepared the organization for Hurricane Katrina. Katrina battered the Mississippi Gulf Coast and almost totally destroyed New Orleans, Louisiana. Housing, schools and entire ways of life were decimated by the storm. JJPL staff was forced to evacuate New Orleans. Particularly vulnerable were New Orleans' children. Approximately 150 youth were trapped in detention centers in and around New Orleans as Katrina approached. The city of New Orleans moved the youth held at the Youth Study Center (YSC) to Templeman 5, a unit at Orleans Parish Prison (OPP). The city did not move any of the children already housed at OPP in the South White Detention Center, commonly known as the Conchetta Youth Center (CYC). Thus, all of Orleans Parish's children in detention were inside OPP when Katrina made landfall.

The young people abandoned to the flood waters were evacuated and placed in the custody of the Louisiana Office of Youth Development (OYD).² OYD utilized Jetson Center for Youth (JCY) near Baton Rouge, Louisiana and Swanson Center for Youth (SCY), in Monroe, Louisiana – two juvenile prisons³ – and other detention centers to house these youth, but not until days after the storm flooded the cells of the Katrina-trapped children.

JJPL, OYD and the Orleans Parish Juvenile court moved quickly and together⁴ to ensure the evacuated children had access to legal representation, access to the courts and access to their scattered families. Consequently, the children evacuated from detention in Orleans saw their cases continue to move through the juvenile justice system. This leadership ensured the continued operation of the Orleans Parish Juvenile Court system and resulted in the speedy reunification of nearly 100 youth with their families and the proper disposition of scores of other cases.

This report follows the journey taken by these trapped children – from OPP to OYD. In their own words, a harrowing tale of escape, mismanagement and neglect unfolds, illustrating deep problems in New Orleans' system of juvenile justice and how we treat children in New Orleans. Experts note that detention is the cornerstone of a local juvenile justice system. Problems with Orleans Parish's detention centers and our juvenile justice system – made more pronounced by Katrina's damage – were neither created nor washed away by Katrina's impact.

New Orleans is now in the midst of rebuilding. As we seek to rebuild a better Crescent City, it is critical to rethink how we treat our children. We need a juvenile justice system built on a foundation of alternatives, safety, humanity and common sense. In short, we need to treat our children better. To that end, this report recommends reform. Specifically, New Orleans needs to reduce its reliance on secure detention as a part of an effective juvenile justice system, depending instead on a system of detention built upon best practice. We must take the opportunity to make sure that the juvenile justice system in Orleans parish is rebuilt to help our youth and help build our families and community. We at JJPL look forward to working with everyone that cares about our young people and our city to make this vision a reality.



David Utter, Director
Juvenile Justice Project of Louisiana

www.jjpl.org/PDF/treated-like-trash.pdf



A most powerful hurricane with unprecedented strength...Most of the area will be uninhabitable for weeks – perhaps longer...All gabled roofs will fail – leaving those homes severely damaged or destroyed... The majority of industrial buildings will become non-functional... Power outages will last for weeks.. Water shortages will make human suffering incredible by modern standards.⁵

INTRODUCTION

As Hurricane Katrina approached, people throughout the region began to evacuate by the hundreds of thousands. New Orleans Mayor C. Ray Nagin estimated that by Sunday night, nearly one million people had fled New Orleans and its surrounding parishes.⁶ Among the many people who could not flee – even as the Weather Service's warnings continued, even as the city descended into chaos – was a group of children locked up in Orleans Parish Prison (OPP). The stories of these children, the systemic failures that led to their abandonment and the strategies necessary to fix juvenile detention in New Orleans are the subject of this Report.

As conditions worsened in New Orleans on August 28, authorities at two local juvenile detention facilities – the Youth Study Center (YSC) and the St. Bernard Juvenile Detention Center – made a fateful decision to transport the children under their care to OPP in downtown New Orleans. Before Katrina, OPP housed an average of nearly 6000 adult inmates and 41 children, making it the ninth largest jail in the United States.⁷ The children of OPP were confined separately from adults, in a section of the prison known as the South White Detention Center or the Community Youth Center (CYC). Together with the new arrivals from YSC and St. Bernard Parish, the population of CYC brought the total number of children held at OPP on August 28 to somewhere between 100 and 150.⁸ The supervision and care of these children now became the direct responsibility of OPP's managing authority: the Orleans Parish Criminal Sheriff's Department, headed by Marlin N. Gusman.

Over the course of the next week following the storm, these children – a substantial percentage of whom had only just been arrested and not adjudicated of any crime⁹ – would endure flooding, exposure to toxins, food deprivation, water deprivation, medical care deprivation, heat exposure, violence and significant psychological stress. None were evacuated until after the levees broke and floodwaters inundated the city. Many children believed they would die at OPP. Until now, the voices of these children remained largely unheard.

Purpose and Methodology

This Report has three objectives: (1) to allow the children held at OPP to tell the story of what happened to them inside that prison before, during and after Hurricane Katrina;¹⁰ (2) to identify the institutional failures present long before the storm which allowed for these events to take place; and (3) to begin the discussion on how to reform the city's juvenile justice system. As we make a commitment to treat our children better through education reform and expanding economic opportunities for youth and families in our city, we need to create a fair juvenile justice system, including a safer, smaller and more humane system of youth detention based on best practices and a continuum of alternatives.

Gathering information in post-Katrina New Orleans – and post-Katrina Louisiana – presented innumerable challenges. Children and families are scattered across the country, documents are lost or missing, some city employees cannot be found, and political tensions are high. Many of the children interviewed for this report were still confined in detention centers and juvenile prisons across Louisiana as we spoke with them, and each child was dealing with the trauma of the storm and evacuation differently. For example, some were slow to answer questions, appearing to suffer from post-traumatic stress, others seemed to have limited memories at first, others showed disinterest, or embarrassment.

Institutional personnel were also dealing with trauma and politics. Officers and personnel from OPP sometimes refused to speak with us for fear of reprisal while others were so angry we could not stop them from talking. Many expressed their intent to never work at OPP again. We did not receive any response when we requested documents from the detention centers (the Orleans Parish Criminal Sheriff's office and the City of New Orleans).¹¹

The children and staff identified in this report were interviewed over the course of several months by JJPL staff. This report incorporates interviews with more than 60 children, staff and experts. It also incorporates investigation and research supplied by JJPL staff, Safe Streets/Strong Communities and the American Civil Liberties Union, National Prison Project (ACLU).

The people of New Orleans deserve to know what happened to children in detention as the worst natural disaster in U.S. history unfolded, and the citizens of New Orleans deserve prompt action to reform the detention system so nothing like this ever happens again. In all ways – including fair treatment in our juvenile justice system – we need to demand better treatment of our children.

HISTORY OF A BROKEN SYSTEM

"[G]uards hit kids and threaten to beat them up ... guards beat kids up every day," "[I] had to wake up at 4 a.m. to eat oatmeal that made me throw up. [CYC makes] my nerves bad."

Long before Hurricane Katrina hit New Orleans, the city's juvenile justice system was broken. In 1997, the *New York Times* called the Orleans Parish juvenile justice system the worst in the nation.¹² In 2002 *American Prospect* magazine made this observation:

The waiting room of the New Orleans juvenile court is hot and crowded. Its ... walls stare down on angry parents, [handcuffed] teenagers and the occasional lawyer. In a corner, Victor Papai, the head of [juvenile public defense] at the juvenile court, shares a 4-foot-by-10-foot office with a staff of six part-time attorneys. Each handles close to 800 cases per year – four times the federally recommended annual caseload for full-time juvenile defenders. But when I enter, Papai is alone playing solitaire on his computer.¹³

New Orleans was also criticized for its treatment of children in detention. For years, children at YSC and CYC endured unsanitary conditions, inadequate education, mental health and medical services, persistent violence by guards and between children, and overcrowding. Indeed, in 1993 the situation was so dire that the Youth Law Center sued CYC, calling the detention center unconstitutional.¹⁴ The lawsuit was settled after one day of trial, resulting in a consent decree requiring that CYC fulfill a series of court-monitored obligations.¹⁵

The Louisiana Children's Code provides foundation and guidance for measuring humane conditions in juvenile facilities. The code states, children "shall receive, preferably in [their] own home, the care, guidance, and control that will be conducive to [their] welfare and the best interests of the state and that in those instances when [children are] removed from the control of [their] parents, the court shall secure for [them] care as nearly as possible equivalent to that which the parents should have given...."¹⁶

Despite litigation, conditions at CYC and YSC remained dirty, violent and dangerous. During interviews conducted by JJPL in June 2002,¹⁷ children at CYC identified a wide range of institutional problems. For example, W.B., a 16 year-old boy held at CYC, complained that the detention center was extremely hot and inundated with various insects. More disturbing, he complained of abusive violent guards, stating "guards hit kids and threaten to beat them up ... guards beat kids up every day." W.B. stated CYC staff continually denied youth an opportunity to attend school as well. When interviewed by JJPL, W.B. was very upset about having to wear the same underwear for three days.

Other children told of how CYC failed to protect children from violence committed by other children. C.W., a 14 year-old boy held at CYC in 2002, complained of unchecked threats of violence by other children. He told JJPL that he stayed in his cell all day to avoid problems.

C.J., a 15 year-old boy, complained of routine strip searches and told of how awful the food was. He stated he "had to wake up at 4 a.m. to eat oatmeal that made [him] throw up." C.J. stated the rat-infested CYC made his "nerves bad."

YSC houses both boys and girls (CYC only houses boys). In April 2002, JJPL interviewed residents of YSC regarding its conditions.¹⁸ They, too, reported a wide range of problems.

D.R., a 15 year-old boy, stated YSC was bad because it was much too hot and had way too many bugs. There was trash in the windows blocking any air from getting in. D.R. kept talking about the heat, saying it was so hot that you could pass out, which made him feel unsafe. He stated he saw fights between kids once in a while but saw guards slapping around kids often. D.R. told us a guard slapped in the back of the neck.

G.C., a 16 year-old girl, had been detained 3 days when she talked to us. G.C. was very sad and worried about

being locked up. She was 4 months pregnant and had asked to see a doctor but wasn't allowed to do so. Her biggest complaint to JJPL in 2002 was about the lack of air conditioning; G.C. noted that YSC is a place that nobody should be.

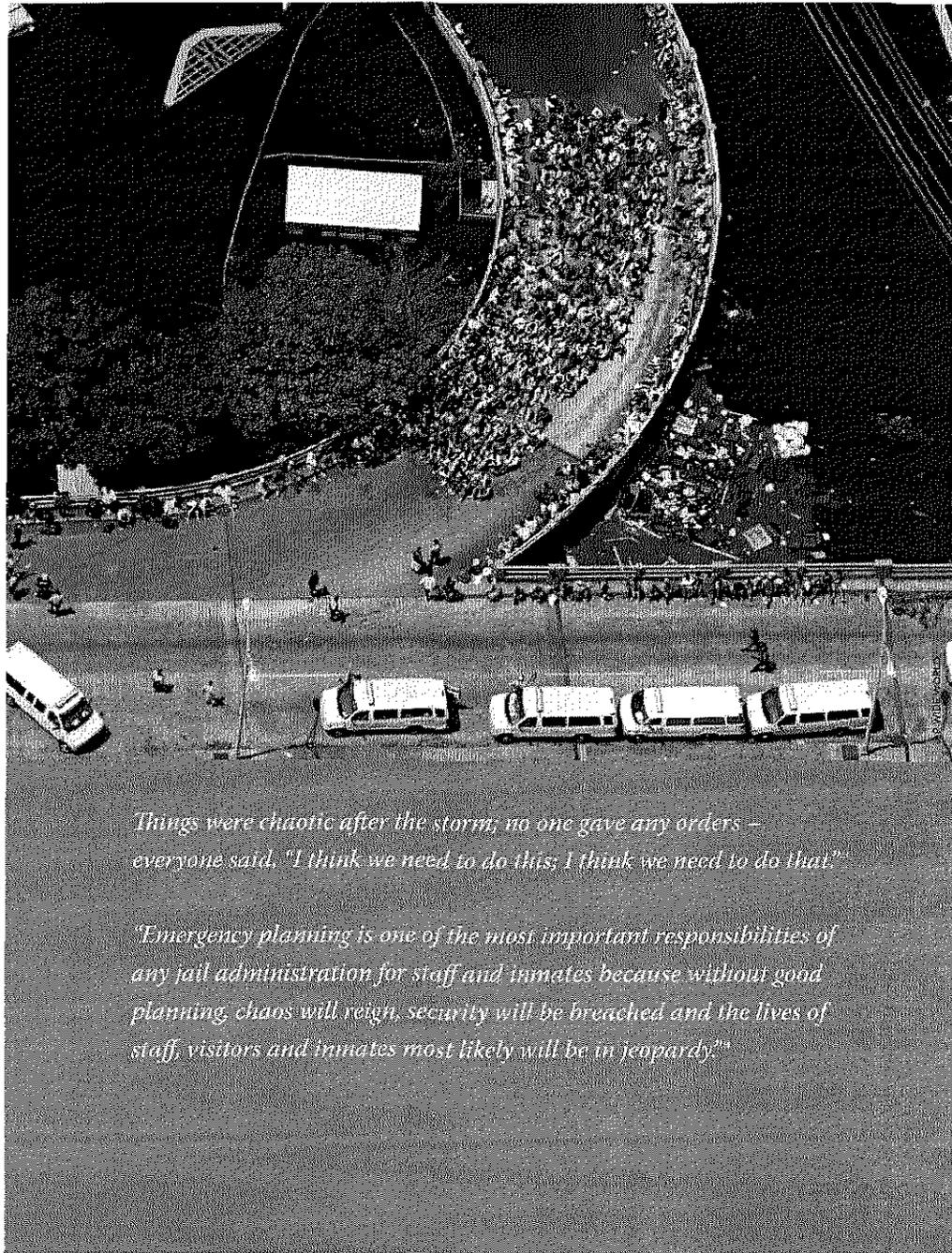
W.J., a 16 year-old boy, complained that YSC was too hot, he was kept in his cell for too long, and he was not provided enough food. W.J. told JJPL in 2002 that he was denied access to counselors and that the only visitors allowed were his mother, father, or guardian (no siblings or other relatives).

Other interviews of children held at YSC illustrated many other concerns as well:¹⁹

- Little to no clean underwear, resulting in unsanitary sharing of clothing.
- Frequent flooding.
- Mattresses described as "hard yellow things with a piece of cotton."
- Insects frequently found in food.
- Cockroaches in rooms.
- Inadequate nutrition, resulting in the YSC nickname "Youth Starvation Center."
- Limited programming and planned activities, whereby residents found themselves "counting the bricks in our stalls."
- Staff members, particularly females, persistently "putting us down and cursing at us."
- Excessive physical restraint, including being choked and slapped by staff.
- Limited educational opportunities.
- No mental health or therapy services.
- No visitation permitted with their own children, according to one 14 year-old female, and no parenting classes.

These excessively harsh conditions of detention in Orleans Parish before Katrina were experienced most often by African-American children. Pre-Katrina, 66.6% of Orleans Parish was African-American.²⁰ CYC's pre-Katrina population, by comparison, was 98.7% African-American.²¹ YSC's population was 95% African-American.²²

The tragic stories of the children detained during Katrina are extraordinary by any measure. Yet viewed in the context of Orleans Parish detention practices, they reveal themselves to be the logical outgrowth of a broken system. This system, despite years of criticism and court intervention, has subjected thousands of children to mistreatment and deprivation. When confronted by a massive – albeit widely predicted – natural disaster in August 2005, it simply crumbled. Children previously neglected were now abandoned entirely. The people of New Orleans cannot tolerate the rebuilding of that system. It must be dismantled, re-designed, and replaced.



Things were chaotic after the storm, no one gave any orders – everyone said, "I think we need to do this; I think we need to do that."

"Emergency planning is one of the most important responsibilities of any jail administration for staff and inmates because without good planning, chaos will reign, security will be breached and the lives of staff, visitors and inmates most likely will be in jeopardy."²⁴

LACK OF READINESS

A DISASTER WAITING TO HAPPEN

In the wake of Katrina, as citizens, journalists and advocates began asking tough questions of local authorities, Sheriff Marlin N. Gusman made the following claim in response to repeated requests for a copy of OPP's evacuation plan: "[T]he plan has been found, but it will not satisfy anyone expecting a comprehensive solution to an event such as Hurricane Katrina. You're not going to see any kind of evacuation plan that details what we did because no one ever imagined we would be surrounded by 7 to 8 feet of water."²⁵ Gusman's claim is simply wrong when compared with predictions made over many years by scientists, journalists, policymakers and engineers.²⁶ Indeed, Gusman's statement directly contradicts the findings of a local study released two full years before Katrina struck.

In September 2003, the Orleans Parish Hazard Mitigation Team (Mitigation Team) released a draft copy of the "Orleans Parish Mitigation Plan" ("the Plan"), a comprehensive study of potential hazards faced by Orleans Parish, including floods and hurricanes.²⁷ The Plan was produced in response to the Disaster Mitigation Act of 2000, a federal bill requiring all local governments to develop such plans in order to remain eligible for federal disaster-relief funds.²⁸ The Orleans Parish Planning Committee included representatives from a wide array of private and public organizations.²⁹

The Mitigation Team's findings were clearly stated and spelled out in great detail how the area surrounding Orleans Parish Prison faced a risk of floodwaters rising up to eight feet: "While the levees in Orleans Parish along Lake Pontchartrain are expected to hold a 14 foot storm surge, there is the possibility of extensive flooding in Orleans Parish from a Category 3 storm due to inflow of water from other parishes...The worst flooding, *over eight feet of water*, would be in neighborhoods to the west and east of City Park. *Almost all of New Orleans between Lake Pontchartrain and Claiborne Avenue would receive four to eight feet of water.*"³⁰ The location of OPP is clearly marked in the shaded area that corresponds to "4 – 8 Feet of Flooding."

The Plan made other findings relevant to the predictability of Katrina's impact on OPP, including:

- "Structural damages from floods are a recurring problem in New Orleans. According to the National Flood Insurance Program, Orleans Parish ranks second in the country in terms of repetitive loss structures (RLS)."³¹
- "[After a flood in] May 1995... [t]he City of New Orleans reported \$27,673,200 in damages to public buildings. The Orleans Parish Criminal Sheriff's Office and OPP were among the hardest hit. City-owned vehicles suffered an additional \$112,221 in damages. Also, the City reported that \$12,000,000 in street repairs were needed due to flooding."³²
- "[F]looding is one of the biggest threats to Orleans Parish. Heavy rains are common in New Orleans and a large portion of the city lies within the 100-year flood plain. A major flood will result in much property damage to residential and non-residential structures and much disruption to the lives of people who live and work in New Orleans. When it comes to floods in New Orleans, the question is 'when,' not 'if.'"³³
- "Based on the evidence from Hurricane Georges in 1998, the waves from a Category 3 hurricane could cause considerable flooding. Georges was a Category 2 storm when it brushed New Orleans. It produced a storm surge of 7 feet above sea level in Lake Pontchartrain. Debris from some 70 fishing camp structures that were destroyed by Georges shows that the waves came within one foot of the top of the levee."³⁴
- "While the damages that a hurricane might cause to Orleans Parish are uncertain, it is certain that Orleans Parish will face hurricanes in the future...Although the chance that Orleans Parish will be hit by a Category 4 or 5 storm is low, the risk from any hurricane is greater now than it was in the past [due to the erosion of natural defenses, such as barrier islands and marsh lands]."³⁵
- "[A] Category 3 hurricane passing directly over New Orleans would have a tremendous impact on the City... [T]he damages from a hurricane like that profiled would be extraordinary."³⁶

Sheriff Gusman's post-Katrina insistence that massive flooding of New Orleans was never predicted does not square with reality for two reasons. First, OPP was evacuated before, on May 8-9, 1995, when 750 adult inmates were moved to the Louisiana State Penitentiary because of a large storm that hit the city.³⁷ Second, numerous professionals in a wide range of fields warned city leaders for years about the precise scenario presented by Katrina. Why did Gusman feel compelled, after the fact, to contradict them? Evidence of OPP's lack of preparation offers some answers.

SHERIFF'S LACK OF PREPARATION

At a press conference on the morning of August 28, Mayor Nagin was asked about his decision not to evacuate OPP. He referred the question to Sheriff Gusman, who said: "[W]e have backup generators to accommodate any power loss... We're fully staffed. We're under our emergency operations plan. ... [W]e've been working with the police department – so we're going to keep our prisoners where they belong."³⁸ A review of the facts, however, reveals that a very different scenario unfolded, one in which staff members were either not available or left their posts and there may not have been any "emergency operations plan" in place at all.

1. What Is Required of the Sheriff's Office?

Under Louisiana law, the Sheriff is the "keeper of the public jail" in Orleans Parish.³⁹ This authority carries with it certain responsibilities. "Each sheriff shall be the keeper of the public jail of his parish, and shall by all lawful means preserve the peace and apprehend all disturbers thereof, and other public offenders.⁴⁰ ... The sheriffs or jailkeepers shall supply each prisoner daily with wholesome food sufficient in quantity for the proper maintenance of life. They shall provide the prisoners with clothing suited to and sufficient for the season."⁴¹

In the event of an emergency, the Sheriff may, at his discretion, transfer inmates to jail in other parishes. "Whenever the jail of a parish is unsafe or unfit for the security of prisoners...or presents a security risk to a prisoner or other prisoners...the sheriff of the parish maintaining and keeping the...prisoners may transfer any...prisoners to the jail or jails of any other parish by written contract with the sheriff of the other parish."⁴² Sheriff Gusman's decision not to evacuate OPP prior to Katrina calls into question why he did not exercise earlier the transfer authority granted him by Louisiana law. The chaotic and dangerous evacuation process itself raises another question: What plan, if any, was relied on by Gusman and his subordinates in executing the evacuation?

2. The OPP Evacuation Plan

On September 21, 2005, the ACLU sent a formal request to Sheriff that his office produce, among other things, "All documents pertaining to any evacuation plans that were in effect at the OPP as of August 26, 2005."⁴³ On November 11, 2005, having received nothing in response to its request, the ACLU filed suit.⁴⁴ Finally, the Sheriff's Office complied, producing a one and a half page document entitled: "Orleans Parish Criminal Sheriff's Office Hurricane/Flood Contingency Plan."

The inadequacies of the Contingency Plan are obvious on its face. It fails to explain evacuation routes, does not include a map, excludes any mention of how prisoners are to be removed from the facility, identifies only three emergency items ("flashlights, extra bedding and emergency rations") and identifies emergency vehicles as simply "departmental vehicles and watercraft." Perhaps most striking, it provides no direction for any specific personnel other than requiring "essential security personnel" to meet with the Sheriff. In addition, no mention is made of evacuation training and exercises for staff and no reference is provided to an employee manual. The reference to stockpiling food and water is unaccompanied by any explanation for how to allocate and distribute those resources. No specific locations are named as potential evacuation destinations for evacuated prisoners, no fixed rendezvous locations are named, and no other state or parish agency is specifically identified as a coordinating partner. The Contingency Plan produced by Sheriff Gusman is cursory and inadequate at best.

Yet even the minimal requirements of its own Contingency Plan were not followed by the Sheriff's Office. Numerous reports from staff and children establish that OPP lacked a "96-hour supply of essential materials, including food and water, in each building."⁴⁵ Indeed, no child reported eating after Monday, August 29 – the day Hurricane Katrina hit New Orleans. "Emergency rations" were not distributed⁴⁶ and it is questionable whether, "24 hours before the expected arrival of the hurricane," Gusman ordered "the evacuation of all single story buildings."⁴⁷

Having failed to comply with its own Contingency Plan, the Sheriff's Office broke its own rules. More than

this, it ignored best practice on how prisons should prepare for and manage evacuations.

3. Professional Standards

"Emergency planning is one of the most important responsibilities of any jail administration for staff and inmates because without good planning, chaos will reign, security will be breached and the lives of staff, visitors and inmates most likely will be in jeopardy."⁴⁸ This is precisely what happened at OPP during Katrina, except that "children" must be added to the list of those whose lives were in jeopardy. Had Orleans Parish and Sheriff's Gusman's office managed the facility in accordance with professional guidelines well established in the corrections field, the Katrina evacuation may have avoided descending into such a state.

According to the American Correctional Association (ACA), an organization whose goals include the development of standards "based on valid, reliable research and exemplary correctional practice,"⁴⁹ "[E]mergency evacuation plans are required for correctional facilities."⁵⁰ At the ACA's 2005 Winter Conference, professionals in the corrections field considered how penal institutions should prepare and execute those plans. "[T]he speakers emphasized key points such as planning ahead of time and paying close attention to details. [David] Bass [Regional Manager of Security and Training in the Eastern Region of the Virginia Department of Corrections], explained that the more a facility prepares ahead of time, the less likely it is that it will have a catastrophic situation, which [John] Garman [Warden of St. Brides Correctional Center in Virginia], succinctly pointed out, would only take one inmate escaping. ... Key aspects of evacuation discussed in the workshop included transporting inmates from one place to the next, where the inmates could be held, supervising the inmates and providing them with basic necessities. ..."⁵¹ The "key aspects" mentioned by the ACA speakers are all areas in which the OPP evacuation fell into confusion and, in some instances, outright chaos. If "one inmate escaping" qualifies as "catastrophic," then what happened in and outside OPP during Katrina was something far worse than a catastrophe.

It did not have to happen that way. As the ACA speakers noted, "Whether it be planning an alternate route to a destination or having options when it comes to where a facility will move the inmates, the unpredictable nature inherent in emergencies dictates the planning of [] alternatives. ... Details [are] of the utmost importance. By creating checklists and strictly adhering to evacuation plans, officials can minimize undesired incidences and maximize public safety. ..."⁵² One need not read Sheriff Gusman's Contingency Plan closely to see that it is devoid of details. Checklists are nowhere to be found.

As for training, according to the American Correctional Association, "[E]xercises must be conducted on a quarterly basis, on every shift and in every section, including the administrative areas."⁵³ Rigorous instruction and mock evacuations are critical to maintaining readiness. "The depth that a facility tests its plan is up to administrators, but if sufficient efforts are not taken to ensure an evaluation of all portions of the plan periodically, staff is being done a grave disservice. After all, the entire plan may look great on paper, but until it is exercised, evaluated and improved, it may not work when an actual emergency occurs."⁵⁴

Contrary to the damage-control of Sheriff Gusman and others, all signs point toward the conclusion that the OPP evacuation was not sufficiently well planned – despite substantial scientific evidence predicting the type of damage caused by Katrina. This failure alone, apart from the stories of the children themselves, calls into serious question the competence of Gusman's office to manage OPP safely. Certainly it should lead Parish leaders to conclude that children have no place there. Most important, it should lead New Orleans citizens to demand a system of detention that is managed humanely and responsibly, in accordance with the highest professional standards.

THE WATER

Many of the children's stories involve coming into direct contact with the flood waters in a variety of ways including forced submersion in the water, accidental swallowing of flood waters, and intentional consumption of the contaminated water due to dehydration. The risks the children were forced to take because of the negligence and lack of preparedness on the part of the Sheriff, are deeply troubling. Analysis of the contaminated waters in the specific location of OPP completed by Gina Solomon, Senior Scientist at the Natural Resources Defense Council, revealed risks that certainly no parent would ever choose for their child. Though thousands of New Orleans residents faced similar exposures after not evacuating, the exposures of the children in question were completely preventable by either evacuation or flood readiness.

Contaminants in Flood Waters

The flood waters around the jail were subsequently found to be seriously contaminated with harmful bacteria, heavy metals, and probably petroleum hydrocarbons. These contaminants likely posed a significant health threat to the juveniles who were in direct contact with the water. On September 7, 2005, the U.S. Environmental Protection Agency (EPA) tested flood water at four locations within a mile radius of the jail.⁵⁶

The testing revealed high concentrations of *E. coli*,⁵⁶ potentially deadly bacteria, in the flood waters. *E. coli* comes from human feces and indicates significant sewage contamination of the water.⁵⁷ The concentrations of arsenic and lead in the water exceeded federal standards for drinking water (there are no standards for floodwater).⁵⁸ Other contaminants detected in the water for which there are no clearly applicable standards included cancer-causing chemicals, an herbicide associated with non-Hodgkin's lymphoma (a type of cancer) and an insecticide that is a deadly poison at high doses. There are no data to indicate the likely health effects of this mixture of chemical contaminants.⁵⁹

The EPA website contains the following warning:⁶⁰

To date, *E. coli* levels remain greatly elevated and are much higher than EPA's recommended levels for contact. Based on sampling results, emergency responders and the public should avoid direct contact with standing water when possible. In the event contact occurs, EPA and CDC strongly advise the use of soap and water to clean exposed areas if available. Flood water should not be swallowed and all mouth contact should be minimized and avoided where possible. ... The most likely symptoms of ingestion of flood water contaminated with bacteria are stomach-ache, fever, vomiting and diarrhea. Also, people can become ill if they have an open cut, wound, or abrasion that comes into contact with water contaminated with certain organisms. One may experience fever, redness, and swelling at the site of an open wound, and should see a doctor right away if possible.

The EPA's tests showed that there were significantly elevated concentrations of sewage-related bacteria and fuel oils in and around OPP. The children of OPP were exposed to cancer causing chemicals and deadly poisons. However, as their stories below reveal, they were oblivious to the dangers of exposure to deadly flood waters, trying instead to simply survive.

THE STORIES⁶¹

The Move to OPP

In his mandatory evacuation order, delivered at 9:30 am on Sunday, August 28, 2005, New Orleans Mayor Ray Nagin made five exceptions: prisons, hospitals, tourists, officials and media.⁶² Consistent with that order, the children already held at CYC – a facility within OPP – remained where they were, along with thousands of adult inmates. At some point that day, authorities at YSC and St. Bernard Parish Detention Center began to bring the children in their care to OPP. None of them recalls being informed by guards or other staff who made that decision or how it was reached. As of this writing, no official from any facility has provided an explanation.

Before leaving YSC, T.J., a 17 year-old boy, reported the children were told "to take one sheet with them. We weren't allowed to take deodorant or mail or anything else." They were subsequently handcuffed, shackled, and brought by van to OPP. D.C., a 15 year-old boy, also from YSC, reported being brought to OPP in a van with eight other boys, "all cuffed and shackled." R.S., a 15 year-old girl, said she was taken in a van with fifteen girls, two of them pregnant, to OPP from the YSC girls' ward. T.G., a sixteen year-old boy, reported that two vans transported a group of 30-40 children, separated by gender, from YSC to OPP.

A.E., a 16 year-old boy, was one of the few children transferred to OPP from St. Bernard Parish. He reported having been moved on Saturday, August 27, with one other boy.

Arrival at OPP

When the children arrived at OPP from YSC, some – perhaps the majority – were held in "Templeman 5" one of several buildings on the prison grounds. Most of the boys from YSC were taken to the second floor, where they were locked in two-man cells. One boy, C.K., 16 years-old, reported being taken to CYC and locked in a first-floor cell with two other boys. An OPP staff member on duty at the time told JJPL that juveniles were also held in Templeman 3.

The girls, of whom there were between 16-20, were initially brought to a room separated from adult male prisoners by only a curtain. R.S., a 15 year-old girl, reported there was a gymnasium next to that room. A.G., a 13 year-old girl, stated that at some point the girls were brought to a "20 person dorm" room on the second floor. Though they remained in that room for several days, the girls were never locked in individual cells.

A.E., a 16 year-old boy, told JJPL that upon arrival at OPP, he and his companion were first locked in an "open dorm with about 200 adult inmates" It was on the first floor. They were the only juveniles in the dorm, as well as the only whites. A.E. reported being threatened with violence and subsequently moved to a holding cell with his companion.

Last Meals: "One boy found some dog snacks."

The children in OPP ate their last pre-Katrina meals at different times, according to where they were held, but not one of them reported eating anything after Monday, August 29th. They went without food from anywhere between three and five days, depending on when and where they were evacuated. Known facts about the availability of food during the children's time at OPP are as follows:

- The girls last ate on Sunday, August 28, the night before the storm hit. R.S., a 15 year-old girl, reported that the meal consisted of stew, with water and milk to drink. They did not eat again until either Wednesday or Thursday night, when they received a sandwich. One girl reported not eating for "three full days," while another estimates the time as "about three days."
- Half the boys report having eaten for the last time on Sunday night, while the other half report having had something – most reported eating grits, others a sandwich – on Monday. One boy – B.L., a 17 year-old – stated he last ate on Saturday, August 27.
- Those boys who ate Sunday night reported eating the same stew as the girls. No one reported eating between Monday and when they were eventually evacuated.



"When we got on the boat [to evacuate OPP], [guard] Mo took us (6-9 kids) to [the Broad Street Bridge]. There was food floating in the water and we tried to catch it and eat it.

That's how hungry we were." One boy ate "dog snacks."

- Estimates by boys for how long they went without food vary because they were evacuated at different times to different places. Some simply could not remember how much time passed.

- Three of the boys said guards at OPP had food during and after the storm. T.J., a 17 year-old, reported, "People's nerves were very bad. Guards were leaving ... [then] coming back with their own food and eating [it] in front of [us] without giving us any." C.K., a 16 year-old, said days after Katrina, once he and other boys were taken outside OPP, they still had not eaten. Nevertheless, they could "see guards eating. ... They had food with them on the rooftops. When [adult] prisoners tried to take the food, the guards threatened to shoot them."

- E.G., a 16 year-old boy, reported that another youth – that he identified as Q.R. – found and ate "dog snacks" during their evacuation from OPP by boat because it had been so long since they last ate anything. E.F., a 15 year-old boy, stated, "When we got on the boat [to evacuate OPP], [guard] Mo took us (6-9 kids) to [the Broad Street Bridge]. There was food floating in the water and we tried to catch it and eat it. That's how hungry we were."

- Several boys reported having suffered physical symptoms from hunger. H.J., a 16 year-old, stated, "Guards kept saying food was coming. Kids were throwing up. ... I was sick and dizzy a lot of the time." T.G., a 16 year-old, shared, "Kids were going crazy, shaking their cells for food and water..." R.S., a 16 year-old, stated, "We went five days without eating...Kids were passing out in their cells. The guards never explained anything to us." L.H., a 14 year-old, stated "I was sick with hunger and dizzy from the cold. ... No one could help us." O.S., a 14 year-old, said "It was scary. I didn't know what was going to happen or where my mom was. ... [The kids] were so weak from no food or water." K.C., a 16 year-old, stated "[The] youth were hungry, thirsty, tired and just wanted to go home."

- Christina Foster, an Orleans Parish Criminal Sheriff Deputy assigned to the House of Detention (HOD), acknowledged that OPP had insufficient supplies. "The jail was on complete lockdown. [The inmates] were told that they couldn't drink the water because it was contaminated ... So no baths or hand washing. We ran out of food, so we gave [the adult] inmates a piece of cheese for the whole day. ..."

Heat, Humidity and no Drinking Water: "I felt like I was about to die."

Just as the Criminal Sheriff's Office failed to stockpile enough food to sustain the children locked in OPP for even 24 hours after the arrival of Hurricane Katrina, a comparable shortage of drinking water quickly resulted in dehydration throughout the facility. With only a few exceptions,⁶³ the boys report not receiving any drinking water after Monday, August 29. Many of them resorted to drinking the floodwater, which contained urine and feces from backed-up toilets, as well as unknown toxins.

- E.G., a 16 year-old boy, told us "The water ... looked like it had a lot of oil in it. It had rainbows in it and lots of trash." A.F., a 16 year-old boy, stated "We were so thirsty, we drank the contaminated water."

- For those who decided not to drink the floodwater and waited until they were removed from the facility, there was often no relief for hours, or even days. P.O., a 15 year-old boy, reported he saw a boy get "maced" by guards when he asked for drinking water while waiting to be evacuated from the Broad Street Bridge.

While reliable temperature data for New Orleans between August 30, 2005 and September 7, 2005 are not available, we can conclude from data preceding and following the storm that temperatures were in the low 80's during that time.⁶⁴

- "It was hot in there," said O.S., a 14 year-old boy, "I was sweating a lot." T.G., 16 year-old boy, stated "One kid passed out from dehydration. ... I started to get really dizzy, like the roadrunner when he gets knocked down, with the birds flying all around his head. I felt like I was about to die."

- T.J., a 17 year-old boy, stated, "The power went out at night. The generators went on. I could hear the tile on the roof coming off. It was very hot inside."

- E.G., a 16 year-old boy, reported "I had been locked up before, but not behind real bars. We couldn't do

anything. We had no sheets, no blankets, nothing. It got really hot, people started getting naked and cursing other people out because they were so hot.”

- R.S., a 15 year-old girl, stated “It was so hot at night we sometimes slept without clothes.” She reported the girls at OPP received two gallons of drinking water per day to share among 15 – 20 of them. “We got a little every day.”

With regard to the adult inmate population, Deputy Foster reported that before the facility ran out of water, “[o]n the seventh floor – mental health – they were passing a trash can filled with water down the tier for the inmates to drink.”

Flooding: “I can’t seem to get that smell out of my skin.”

Inside OPP

Once New Orleans began to flood, the lower levels of OPP were inundated with water. Children held on the first floor – most, if not all, of whom were detained in CYC prior to Katrina – reported the water rising to a level of several feet.

- C.K., a 16 year-old boy, reported “I was locked in my dorm with two other boys until the water was half way up the wall. ... [We] tried to save our clothes and shoes by keeping them on the top bunk where we sat.”

- D.B., a 15 year-old boy, stated, “[There were] 50 kids locked up together in Dorm 4. A lot of them were brought from lockdown. There weren’t enough beds for everyone. The water started rising – it reached the middle of my thigh – and kids started jumping on the racks [beds]. Kids started to fight once the water started rising. I got jumped and hit in the eye. R.J. got hit hard in the face and he started bleeding. No one got any medical care.”

- K.C., a 16 year-old boy, told us, “The night of the storm, [we] were placed in some kind of a dorm on the first floor. There were about 40 of us in the dorm room. The lights went out [and] water started coming in. ... [We] had to get on top of [our] beds to get out of the water.”

- C.M., a 16 year-old boy, stated, “A few hours after the storm hit, the water started rising. That night the water started coming out of the toilet and the drains. It smelled like straight swamp water. I was crying and thinking about my people because right before the power went out we saw what was happening on the news and saw the Ninth Ward flooding. Kids were really upset because most of them were from the Lower Ninth.”

- Children held on the second floor – the majority of them from YSC – reported seeing the water rise below them. E.G., a 16 year-old boy, said, “The downstairs at Templeman started flooding around 5 [pm]. ... You could see the water out the window. When the flooding started, the food stopped coming.”

- T.J., a 17 year-old boy, stated, “The guards let us out [of our cells] once to walk around, but then there was a fight. While I was walking around, I went to the window and looked out. I could see floating trucks. The water rose for a couple of hours until it hit the stairs. Then we were trapped. ... [E]veryone started panicking.”

The majority of children reported the toilets in OPP backed up, sending human waste into the floodwaters and filling the facility with an unbearable stench.

- T.G., a 16 year-old boy, shared, “I didn’t leave my cell for two straight days. The toilet backed up and I covered it with half a mattress, it smelled so bad. Our whole section stank of human waste.”

- E.G., a 16 year-old boy told us, “It stank, stank, stank in there. The toilets were backed up.” C.K., a 16 year-old boy, stated “The toilets were overflowing into the water.”

- O.S., a 14 year-old boy, said, “It smelled dirty because of the toilets. You couldn’t use [them] and they smelled.”

- C.S., a 15 year-old boy, “We had human feces floating around us in the water ... we were forced to survive in for 3 days. I still have little sores on my skin. I can’t seem to get that smell out of my skin. ... [M]aybe it’s all in my head but that smell will be with me, and be in my head for a very long time.”

The bathroom situation didn’t get any better once a group of boys were removed from their cells and taken outside. Many of them were forced to spend up to two nights next to OPP’s fishponds, where the facility reportedly raised fish pre-Katrina. D.B., a 15 year-old boy, told us “I got nothing to eat or drink at the fishponds, and there were no [toilets]. [Guards] refused to get us drinking water. We couldn’t sleep because we couldn’t even lie down. We had to go to the bathroom in the floodwater around us.”

Outside: “Everything Was Out of Hand”

The most sustained, direct exposure to toxic floodwaters experienced by the children was during their evacuation from OPP itself. Depending on their age and size, they had to wade, swim or be carried through the water. Some of them were taken to boats, which transported them to the Broad Street Bridge. Others went to the fishponds outside OPP, where they waited for varying amounts of time to be taken to JCY. Many children said the passage through the waters was one of them most difficult parts of the experience. Summarizing his experience, T.G., a 16 year-old boy, said during the evacuation, “Everything was out of hand.”

- P.O., a 15 year-old boy, who was taken by boat to the bridge, recalls the water being “chest high.” P.O. is 5’11”. D.C., a 15 year-old boy, stated the water was “up to my chin. ... [The] tall adults carried little ones.” D.C. is 6’2”.

- At 5’6”, C.M., a 16 year-old boy, said the water was “too deep to walk in, and we weren’t given life jackets.” C.S., a 15 year-old boy, said “It was scary because I can’t swim and they were pulling us by our shirts and I went under the water a few times. I even swallowed a lot of water. ...”

- H.J., a 16 year-old boy, said “All the kids were cuffed and shackled. [The] water was up to my chin. We were pulled out by rope and guards put us on a boat.” C.M., a 15 year-old boy, reported he and other boys were “roped together” with “plastic handcuffs on.” The water “was up to [my] neck when [we] were leaving OPP. ... People who were struggling with the water had help from the guards and the other juveniles.”

- C.K., a 16 year-old boy; C.M., a 15 year-old boy; E.G., a 16 year-old boy; and O.S., a 14 year-old boy; all said the younger ones got life jackets, while the older ones did not receive any flotation devices. According to C.K., the boys were all “chained together” during the evacuation. R.S., a 16 year-old boy, reported seeing smaller children swimming through the water.

As for the girls, A.G., a 13 year-old girl, reported adult inmates “took a mattress and floated [us] out. [We] were taken by the mattress to a boat” R.S., a 15 year-old girl, said, “We walked through the water up to my mouth. I’m 5’7”. We carried [a] twelve year-old through the water. Guards watched ‘trustees’ [adult inmates] help us into the boats.”

Clothing and Bathing

Without exception, the children reported no access to showers or clean clothes between their arrival at OPP and their eventual evacuation – in some instances as long as five days later – to JCY in Baton Rouge. Once at JCY, they had access to food, water, medical attention and showers.

Upon leaving OPP, all of the children were forced to walk, swim, or be carried through heavily contaminated floodwater. Because many of them spent long periods of time – up to two nights and three days – waiting outside the facility even after leaving their dorms and cellblocks, this meant sleeping and traveling in clothes soiled with toxins.

Medical Care

Not one child reported having seen or been attended to by medical personnel during her stay in OPP. Even if they had received medical training, which is unknown, guards do not appear to have made any attempts to manage the children’s medical issues, which included minor and major injuries, shortages of medication, and chronic health problems. R.S., a 16 year-old boy, reported injured children were put in separate cells after youth-on-youth fights, but staff made no attempts to deal with their wounds. Excluding symptoms associated

with dehydration and hunger noted above, the following facts are known about medical conditions that arose after Katrina hit. Those that arose after the children's arrival at JCY are noted:

- Two of the girls held in OPP were pregnant at the time. According to R.S., a 15 year-old girl; and A.G., a 13 year-old girl, the pregnant girls received no medical attention at all. Whether their pregnancies were subsequently affected by the events at OPP is unknown.
- D.B., a 15 year-old boy, was hit in the eye by another boy, sustaining injury. A cut on his leg became infected. His skin became covered in spots on his legs from the water. After evacuation, D.B. was put on antibiotics for 10 days by a doctor at another facility. D.B. also saw "a white kid ... have a seizure and pass out."
- K.C., a 16 year-old boy, received bruises on various parts of his body from getting "jumped" by other boys.
- E.F., a 15 year-old boy, had a bloody nose, swollen eye and "busted lip" from getting "beat up" by other children. After leaving OPP, his feet "turned all white, with mildew and sores on them. I was throwing up blood ... My feet are still messed up and still itching. My face is better." E.F. also witnessed a boy – nicknamed "17" – receive injuries from getting hit "with a phone."
- T.J., a 17 year-old boy, had "beaucoup bumps" on his face post-evacuation and a wound that became infected. He was put on antibiotics and painkillers once he arrived at JCY.
- C.K., 16 year-old boy, witnessed a boy get his jaw broken by another child. The boy reportedly spit out some of his teeth after being beaten. C.K. himself was hit in the face multiple times by a guard and was inadvertently sprayed with mace. C.K. also experienced severe sunburn – to the point that "skin was peeling off" – as a result of exposure after being taken outside OPP.
- R.S., a 16 year-old boy, got a "busted" nose, split lip and swollen eye from a fight.
- C.S., a 15 year-old boy, went "under the [flood] water" a few times during the evacuation. As a result, he said he was "very ill for about three weeks."
- A.F., a 16 year-old boy, reported being sunburned "from his knees up" while waiting to be evacuated. He also got some type of "fungus" on his feet from exposure to the water. A.F. witnessed many fights between boys and a lot of adults getting "maced."

Guards Abandoning Post

At least four boys and one girl witnessed staff at OPP abandon the facility during and after the storm:

- A.G., a 13 year-old girl, reported YSC staff left OPP during the storm.
- C.K., a 16 year-old boy, told us many guards "quit and left [us] locked in [our] cells."
- K.C., a 16 year-old boy, said, "On Monday [August 29], at least six guards just walked out. Colonel Weaver, Captain Keith and Mr. More stayed."
- C.M., a 16 year-old boy, stated "At first the guards acted like nothing was going to happen and then a bunch of people quit, leaving only 3-4 guards for all 32 kids [in my section]."

Guard Violence: "The Mayor Said We Can Shoot to Kill!"

As conditions at OPP deteriorated, the remaining guards became increasingly desperate. Deputy Foster put it this way, "As the storm approached, [things became] chaotic. No one gave any orders. Everyone said, 'I think we need to do this, I think we need to do that.' Deputies were running the jail..." After days had gone by and the OPP evacuation finally began, "[D]eputies were maintaining security for inmates, families, and civilians. [We] were all thirsty, suffering from heatstroke, starvation, frustration with the Sheriff ... [When adult] inmates tried to take the [Broad Street Bridge], [we] had to threaten lethal force..."

In this climate of anxiety and uncertainty, guards, police and possibly military personnel used violence and threats of violence against both children and adults in an attempt to maintain order – often terrifying and sometimes injuring the children in their care. Reported incidents include:

- C.K., a 16 year-old boy, was hit in the face multiple times by a guard during his stay in OPP. He also saw children threatened by guards at gunpoint – "with guns raised to their heads."⁶
- R.S., a 15 year-old girl; and T.G., a 16 year-old boy, reported that on the bus from Broad Street Bridge to JCY, post-evacuation, "one girl got beaten by a guard for fighting with another girl" and removed. The girl was taken to a van. T.G. said the guard used "closed fists."
- O.S., a 14 year-old boy, stated once they arrived at the Broad Street Bridge, the children were threatened by armed, uniformed officers whom O.S. believed were from the New Orleans Police Department. "They had big guns. ... They told us that the mayor said 'We can shoot to kill! There was military there, too, but it was mostly NOPD. NOPD beat up an adult prisoner. They busted open his head. ... You could see the meat.'"
- E.G., a 16 year-old boy, observed upon arriving at the Broad Street Bridge, "[T]here were military there in brown [uniforms]. They 'handled' a few kids and were screaming at them. They handled them by pushing them around, 'slamming' them. ... One [officer] told us that because of the situation, they could 'kill them for nothing! If a kid would as much as talk to another kid, they would snatch him up and move him!'"
- T.J., a 17 year-old boy, stated, "Guards told [us] while [we] were being evacuated, 'You're not juveniles no more. You are in an adult jail. If you move the wrong way, we're gonna shoot you.'" T.J. also recalls, "One man was maced and beat up really badly. His head was busted. ... They let the dogs loose on that man. ... The dogs were biting him all over. They told people they would kill them if they moved. ... The worst thing I saw was the guards beating that man while everyone was just sitting there. ... Those people need to go to jail or something."
- C.M., a 15 year-old boy, said guards pointed their guns at children's heads, threatening to shoot them if they moved. When adults tried to escape, if the guards found them, they would take them to Broad Street Bridge and beat them. "I saw [an adult] with his head beat in." Once "on the bus," presumably to JCY, officers C.M. called "the feds" threatened "to gas the bus."
- C.M., a 16 year-old boy, said "The youth were shackled the entire time [during the evacuation]... [We] were handcuffed during all of this, too. When [we] were shackled it was ten youth shackled together. G.T. (another boy) slipped out his handcuffs so they maced him and since they were all shackled together, the other kids basically got maced too." C.M., a 16 year-old boy, also observed a death on the bridge, "One man died on the [Broad Street Bridge] and the guards took him by his arms and legs...and threw him off the bridge into the water. ... [He] may have been dead, but they could have treated him with more respect."
- P.O., a 15 year-old boy, stated "[The] guards did not really care about us. [One] kid got maced requesting water. Some kids were too weak to act, or do anything for themselves."
- E.F., a 15 year-old boy, stated "The guards had dogs [on the Broad Street Bridge] and some inmates got bit and started jumping off the bridge. One dude passed out..."

Arriving at JCY

Once the children arrived at JCY, a facility operated by OYD, the majority reported that conditions improved substantially. They were fed, allowed to bathe, given clean clothes and – for the most part – medical attention. C.M., a 15 year-old boy, said, "[At JCY] we got food and water. We were treated very nicely." T.G. (16 year-old boy) made it clear that the children did not have to wait for attention at JCY. Care was delivered "immediately." D.B., a 15 year-old boy, recalled seeing a nurse at JCY.

According to staff at JCY who helped receive the evacuated Orleans children, the children were at different levels of distress. Dr. Heidi Sinclair, a pediatrician, told us she encountered, "One 10 year-old with broken arm, one girl pregnant, one girl with child in foster care. ... [Children] told stories of chest-high water

and floating bodies. ... A few kids passed out from heat exhaustion. ... Six employees from YSC ... were completely traumatized, vowing to never go back to New Orleans." Dr. Sinclair continued, "[We] kept boys in the infirmary with health problems, then put half in JCY and half in other places; some of the kids broke down crying when they were forced to be moved."

Psychological Impact: "Until I'm Dead and Gone"

While none of the children interviewed for this Report has provided a psychological or psychiatric evaluation to JJPL, children's comments indicate the impact of the OPP evacuation will prove substantial and enduring. Some of the children have attempted to forget about the entire episode, choosing not to think about it. Others, such as K.C., a 16 year-old boy, continue to suffer from nightmares and anxiety.

C.K., a 16 year-old boy, did not admit he was scared, but at one point said, "I am a tough dude, but L..." He did not finish the sentence. E.G., a 16 year-old boy, put it this way: "You wouldn't want to [have been] in there. It felt like your last days. It was not right at all." C.M., a 15 year-old boy, who shared he is "affected" but would not elaborate, said simply: "We were treated like trash in New Orleans." O.S., a 14 year-old boy, continues to think about it and remains angry about the way the children were treated. R.S., a 16 year-old boy, described himself as saddened by the event, and continues to think about it. C.M., a 16 year-old boy, stated "it bothers" him, so he doesn't think about it.

The mother of K.C., a 16 year-old boy, reported her son "is having a hard time but getting better." She began looking for a psychiatrist in the area where they have relocated, but "has just been overwhelmed with looking for a place to live." She described herself as "very angry and upset about what happened to [my] son," but is "exhausted right now" and thus "not necessarily in a place to work with others on this."

C.S., a 15 year-old boy, was the most candid of those interviewed: "[I]t was a horrible experience and I would never want to go through that again and I know this will have a long-term effect on me until I am dead and gone."

WHERE FROM HERE? BEST PRACTICES

As the "keeper" of OPP, Sheriff Gusman clearly bore responsibility for the safety of the thousands of men and children confined there in the days and hours before Katrina hit New Orleans. He must answer for the belated and ultimately evacuation that unfolded. Yet it was presumably not Gusman's decision alone to "evacuate" children from YSC and elsewhere Parish to OPP. Nor was it likely his sole decision to keep CYC's juvenile population in the facility during the storm. It would be too simple to blame the Sheriff's Office alone for this web of decision-making. The stories of these children are the product of institutional failure, failure which itself was the byproduct of a broken juvenile justice system. If, before Hurricane Katrina, Orleans parish had supported viable alternatives, resulting in fewer children being detained in the first place, held youth in smaller, more therapeutic – less prison-like – facilities, and based the operation of its detention facilities on sound, research-based principles, many of the children highlighted in this report would not have suffered.

A New Detention System

"Of the many troubling facts about pretrial juvenile detention perhaps the most disturbing one is that many incarcerated youth should not be there at all. These are the kids who pose little risk of committing a new offense before their court date or failing to appear for court – the two authorized purposes of juvenile detention."⁶⁷

The nationally accepted purpose of juvenile detention is twofold:

1. To hold a youth who is awaiting a hearing because of the strong belief that he or she may commit new crimes before the hearing. This belief is based on a number of factors, including the severity of the alleged offense and a youth's previous contact with the legal system.
2. To ensure that the youth will show up in court at the appointed time.⁶⁸

Prior to Katrina, Orleans Parish detained a large number of youth simply because we had no viable alternatives, not because they posed a threat to public safety or represented a risk of not appearing for court. The Coalition for Juvenile Justice reports that 24% of youth in detention in the United States are held for violations of probation, parole or a court order, and 26% are held for property crimes.⁶⁹ While no data is available, there is no reason to believe Orleans parish is any different.

Ideally, only youth who are serious repeat offenders or who are arrested for violent offenses would be held in juvenile detention. It would benefit the youth and community to work with school systems to ensure that schools are not referring youth to the police for incidents that can be handled by the school or community. Youth can be treated within their communities through a number of programs. By locking a youth in detention, especially an overcrowded detention center, the risks for suicidal behavior and psychiatric illnesses are increased.⁷⁰ Furthermore, youth are removed from many of the safety nets that help them cope such as school, positive relationships, family and community supports, in addition to removing them from school.⁷¹ It has been shown that treating most youth in their communities does not compromise public safety and may in fact help to improve it by reducing recidivism.⁷²

The City of New Orleans must fix our broken detention system first by viewing detention as a process rather than a place. Detention as a process refers to graduated levels of supervision and considers custody an act rather than a physical placement. This concept moves detention beyond the notion of a single building and instead embraces a wide variety of services in the community, a continuum of care. Detention as a process opens the door to more alternatives and allows officials to be more flexible, assigning levels of supervision to fit the particularized needs of each child.

HOW TO GET THERE Research and Planning

First – before any reform can begin – there is always a crucial planning stage. Certain measures must occur prior to any positive reform taking place. It is important that accurate data be collected on the youth that will be involved in the detention system. This information must be collected in order to develop an accurate foundation for any future reform.

Second, all stakeholders must be included in the planning process; this includes public and private agencies. These stakeholders include Juvenile Court, police, probation, prosecutors, defense attorneys, schools, public agencies serving youth, local elected officials, community-based service providers, residential care providers and youth advocacy



In a cash strapped post-Katrina New Orleans, all government agencies are searching for ways to save money. Embracing detention as a process ensures our scarce tax dollars are used effectively. Not only would this new practice save the city money, it also results in a safer public and more humane treatment of our youth.

groups. In the planning process, the focus should be on creating a range of detention options that include alternatives to detention. This allows youth to be placed in the most appropriate setting as not all youth are appropriate for secure care.⁷³

Many of the problems with the detention system stem from overcrowding. This is a common scenario in detention systems across the country. Overcrowding can affect the amount of food available for youth, their access to hygiene, recreation and education as well as medical and mental health services.⁷⁴ It also makes keeping the facility clean and properly functioning more difficult and changes the staff to youth ratio. While simply addressing the issue of overcrowding will not solve all the problems, it will begin to make solving other problems a bit easier. By embracing the concept of detention as a process and developing effective alternatives to detention, Orleans Parish can begin to address overcrowding and avoid the ominous task of evacuating or caring for 150 adolescents. It is very important to ensure that when developing alternatives we are not simply widening the net and involving youth in the juvenile justice system who would have not been involved prior to alternatives. These alternatives should be accessible and relevant to the youth they are meant to serve and designed upon the concept of least restrictive setting. In short, a detention system needs to use common sense to avoid criminalizing normal adolescent behavior.

PROVEN MODELS The Annie E. Casey Foundation

The Juvenile Detention Alternative Initiative (JDAI) of the Annie E. Casey Foundation provides systems with support in reducing their reliance on incarceration. JDAI has four objectives: 1) to eliminate the inappropriate or unnecessary use of secure detention; 2) to minimize failures to appear and the incidence of delinquent behavior; 3) to redirect public finances from building new facility capacity to responsible alternative strategies; and 4) to improve conditions in secure detention facilities.⁷⁴

JDAI recommends three basic program models for alternatives to detention.

1. Community Detention

The first program model is home or community detention. Home detention relies on low caseloads and frequent, unannounced, in person supervision. Staff can increase or decrease the youth's supervision level depending upon behavior. Youth are subject to a strict curfew and are limited to pre-approved activities outside the home such as church and school.

2. Day and Evening Reporting Centers

Day and Evening reporting centers are another effective alternative that have shown success in other jurisdictions. Many youth who participate in day reporting are not enrolled in school and therefore have a lot of idle time. Youth can participate in educational and recreational activities at the centers. The evening reporting centers are usually for the hours between 3:00 p.m. and 9:00 p.m. It is important to note that these centers are providing intensive supervision and are not day treatment centers.

3. Residential Supervision

The third alternative is residential supervision. This program model is for youth who require 24-hour supervision in order to be released from secure detention or for those youth who have no suitable home placement available. This program model is also referred to as "shelter care" or "non-secure detention." While shelter care will have locks on the doors and windows, it is highly dependent on intensive staff supervision. For example, in New York City's non-secure detention, Youth are supervised by staff 24 hours a day, seven days a week with an ideal staff to youth ratio of 6 to 1.⁷⁵ Youth receive education, recreation, tutoring and other life skills training. Youth should not remain in shelter care for longer than 30 days.⁷⁶

An array of alternatives, with humane secure detention only for those youth where alternatives are inappropriate, help keep the public safe and ensure youth appear for their court dates. Alternatives to detention cost far less than secure detention. For example, in New York City the cost to hold one youth in secure detention is \$358 a day whereas the cost for one youth in an alternative to secure detention is between \$16-24 a day. In Tarrant County, Texas it costs \$121 a day per youth and alternatives to detention cost about \$3.50 a day for electronic monitoring and \$30-35 a day for intensive supervision. The average cost of operating one detention bed in the United States for one year is \$36,487.⁷⁷ Multiply that by the number of youth who cycle through the system each year and the cost is staggering. In a cash strapped post-Katrina New Orleans, all government agencies are searching for ways to save money. Embracing detention as a process ensures our scarce tax dollars are used effectively. Not only would this new practice save the city money, it also results in a safer public and more humane treatment of our youth. ▶

ENDNOTES

1. The Juvenile Justice Project of Louisiana (JJPL) is a statewide nonprofit advocacy organization based in New Orleans and dedicated to reforming Louisiana's broken juvenile justice system. JJPL's mission is to transform the juvenile justice system into one that builds on the strengths of young people, families and communities to ensure children are given the greatest opportunities to grow and thrive. Since 1997, when JJPL first opened its doors, JJPL has worked to reform Louisiana's juvenile justice system by improving conditions and treatment for incarcerated youth, improving legal advocacy for indigent youth accused and adjudicated of crimes and expanding community-based alternatives to incarceration.
2. In 1998, JJPL sued the state of Louisiana on behalf of incarcerated children. In conjunction with the United States Department of Justice (DOJ) and a law firm in Baton Rouge, JJPL charged the state with committing a wide range of civil and human rights abuses against Louisiana's incarcerated children. *Brian B., et al. v. Stalder, et al.*, CA No. 98-886-B-MI (M.D. La. 1998) (consolidated with *Williams v. McKeithen*, No. 71-98-B (M.D. La. 1971) and *U.S. v. Louisiana*, No. 98-947-B-1 (M.D. La. 1998).
3. Bridge City Center for Youth (BCCY), the third juvenile prison operated by OYD, is located in the New Orleans Metropolitan Area. OYD evacuated children and youth from BCCY at least two days prior to the storm making landfall in New Orleans and placed them at Jetson Center for Youth (JCY).
4. Recognizing the need for cooperation between JJPL and OYD, Judge Mark Doherty, acting under emergency authority and as Chief Judge of Orleans Juvenile Court, appointed JJPL to represent the evacuated youth on September 14, 2005, ordering:
The Juvenile Justice Project of Louisiana is hereby appointed to represent all juveniles currently being held by the Department of Public Safety & Corrections who were evacuated from the Youth Studies Center in New Orleans and the Juvenile Unit of the Orleans Parish Criminal Sheriff (CYC), for the limited purpose of determining the whereabouts of their nearest relatives in order to present that information to the Department and to the Court at a special hearing to be set for that purpose.
Governor Kathleen Babineaux Blanco declared in an emergency order that the all Orleans parish courts are closed on "court holiday" until October 25, 2005 and the Louisiana Supreme Court issued an order closing until November 28, 2005.
5. Giles Whittle, "Warnings Were Loud and Clear — but Still City Drowned," September 8, 2005, *The Times Online* (London), available at: <http://www.timesonline.co.uk/article/0,23889-1770245,00.html>.
6. "New Orleans Braces for Monster Hurricane," August, 29, 2005, *CNN.com*, available at: <http://www.cnn.com/2005/WEATHER/08/28/hurricane.katrina/>
7. U.S. Department of Justice, Bureau of Justice Statistics, "Prison and Jail Inmates at Midyear 2004," April, 2005, p. 10, available at: <http://www.ojp.usdoj.gov/bjs/pub/pdf/pjim04.pdf>
8. We estimate the number of evacuated children to be near 150, based on documents made available to us by the Office of Youth Development through the Orleans Parish Juvenile Court. As of the release of this report, we have been unable to confirm the exact number of children confined at OPP during and after Katrina.
9. In the juvenile justice system, the word "adjudicated" has the same meaning as "convicted" in the adult context.
10. For clarity's sake, this Report refers to children by their ages as of August 28, 2005.
11. We sent requests for public records to the Orleans Parish Criminal Sheriff's Office on April 3, 2006 and the City of New Orleans on March 29, 2006. The Orleans Parish Criminal Sheriff operates CYC, and the City of New Orleans operates YSC. We did not receive answers to our requests.
12. Fox Butterfield, *Justice Besieged: New Orleans Juvenile Court System is Called Nation's Most Troubled*, New York Times, July 22, 1997, A1.
13. Sasha Polokow-Suransky, *I Plead the Sixth*, American Prospect, August 12, 2002, p. 18.
14. *Doe v. Foti* No. 93-1227 (E.D. La.).
15. *See Williams, et al v. McKeithen, et al*, CA No. 71-98-B (M.D. La. 1997) (available at *Hamilton Plaintiffs v. Williams Plaintiffs*, 147 F.3d 367 (5th Cir. 1998).
16. *See* La. Ch.C. art. 801(B).
17. Interviews were conducted between June 19 – June 24, 2002. Documentation is retained by JJPL.
18. Interviews were conducted by JJPL staff on April 22, 2002. Documentation is retained by JJPL.
19. These testimonials were taken from girls housed in YSC in April 2002.
20. Greater New Orleans Community Data Center, *Orleans Parish: People & Household Characteristics* (based on data from 2000), available at: <http://www.gnocdc.org/orleans/people.html>.
21. This figure was calculated based on data from the South White Street's Juvenile Alternative School, an OPP-based facility. Out of 156 children attending South White Street (all of whom were, by necessity, incarcerated in OPP at the time), 154 were African-American.
22. Youth Study Center, *Annual Report*, 1999.
23. April 5, 2006 interview with Former Orleans Parish Criminal Sheriff Deputy, Tyrone Davis.
24. Jeffrey L. Pierson, "New Jersey jail benefits from emergency evacuation exercise," *Corrections Today*, Vol. 65, Issue 4, p. 85 (July 1, 2003).
25. Richard A. Webster, "New Orleans Prison's Future in Question" *New Orleans City Business*, December 19, 2005, available at: http://www.findarticles.com/p/articles/mi_qn4200/is_20051219/ai_n15937002.
26. *See e.g.*, Eric Berger, "Keeping Its Head Above Water: New Orleans Faces Domsday Scenario," *Houston Chronicle*, A 29, December 1, 2001, available at: http://www.chron.com/CDA/archives/archive.mpl?id=2001_

- 3352630 ("New Orleans is sinking. And its main buffer from a hurricane, the protective Mississippi River delta, is quickly eroding away, leaving the historic city perilously close to disaster. So vulnerable, in fact, that earlier this year the Federal Emergency Management Agency ranked the potential damage to New Orleans as among the three likeliest, most catastrophic disasters facing this country.") (emphasis added); In October, 2001, *Scientific American* quoted Jefferson Parish emergency management director Walter Maestri as saying: "Any water that comes into this city is a dangerous threat. Even though I have to plan for it, I don't even want to think about the loss of life a huge hurricane would cause." Eric Berger, "Keeping Its Head Above Water: New Orleans Faces Domsday Scenario," *Houston Chronicle*, A 29, December 1, 2001; Lori Widmer, "The Lost City of New Orleans", *Risk and Insurance*, No. 15, Vol. 11, p. 38, December 1, 2000 ("New research by the U.S. Geological Survey...indicates that New Orleans is sinking faster than many realize and could be under water within 50 years. The city is facing a series of issues - disappearing wetlands that protect from hurricanes, levees that are too low to hold back flood waters, rising water tables, to name a few - that if not addressed soon could have New Orleans suffering the same fate as Atlantis."); Dan Gilgoff, "Big Blow in the Big Easy," *U.S. News & World Report*, July 18, 2005 (Director of Louisiana State University's Center for the Public Health Impacts of Hurricanes, said, "If a hurricane comes next month, New Orleans could no longer exist;" American Red Cross "ranked the prospect of a hurricane's hitting New Orleans as the country's deadliest natural disaster threat, with up to 100,000 dead."); *see also* Raymond Burby et al, "Unleashing the Power of Planning to Create Disaster-Resistant Communities," *Journal of the American Planning Association*, No. 3, Vol. 65, p. 247, July 22, 1999.
27. The Orleans Parish Mitigation Plan was produced by GCR and Associates, Inc., 2021 Lakeshore Drive, New Orleans, LA 70122. It is available at: <http://hazardmitigation.org/ThePlan.htm>
28. *See* "City of New Orleans Hazard Mitigation Plan Kick-Off Meeting," minutes, April 9, 2003, available at: <http://hazardmitigation.org/meetings.htm>
29. The organizations represented on the Mitigation Team were: City of New Orleans Office of Emergency Preparedness, Mayor's Office of Economic Development, New Orleans City Planning Commission, New Orleans Fire Department, New Orleans Police Department, Orleans Levee District, Regional Planning Commission, New Orleans Regional Chamber of Commerce, UNO, Delgado Community College West Bank Campus, LSU Cooperative Extension Service, Historic District Landmarks Commission, Vieux Carre Commission, U.S. Army Corp of Engineers, New Orleans District, American Red Cross, City Park Improvement Association, Gently/Sugar Hill Residents' Association, English Turn Neighborhood Association, ComputerCC, Green Fields Real Estate.
30. GCR and Associates, Inc., "Orleans Parish Mitigation Plan," p. 13, available at: <http://hazardmitigation.org/ThePlan.htm>. The map is available at: <http://hazardmitigation.org/graphics/Maps903/map13hur.jpg>
31. GCR and Associates, Inc., "Orleans Parish Mitigation Plan," p. 9. A repetitive loss structure is defined as a structure covered by flood insurance that has incurred flood-related damages at least twice in a ten-year period, for which the cost of repairing the damage was at least 25 percent of the market value of the structure at the time of the flood event.
32. *Id.* at 10-11.
33. *Id.* at 11.
34. *Id.* at 13.
35. GCR and Associates, Inc., "Orleans Parish Mitigation Plan," p. 14.
36. *Id.* at 15.
37. "One of the heaviest rain events in Orleans Parish in recent history occurred May 8-9, 1995. During this storm, as much as 17 inches of rain fell in parts of Orleans Parish over a 48-hour period. Four people drowned in this flood and one person died of a heart attack as a result of pushing his flooded car. Ultimately, \$389 million in damages were documented in New Orleans. Actual damages likely exceeded this amount. A breakdown of damages shows how wide-spread the devastation from this flood was: City buildings suffered an estimated \$1 million in damages, Touro Hospital closed temporarily on May 8 as a result of the flooding; Charity Hospital, Mercy + Baptist Medical Center, Tulane Medical Center, and United Medical Center each suffered damages ranging from \$50,000 to \$250 million; Orleans Parish Prison had to move 750 inmates to the Louisiana State Penitentiary; public schools suffered an estimated \$9 million in damages; 46 of 124 public schools incurred some damage; 11 public schools remained closed through at least May 12; early estimates showed that between 10,000 and 30,000 housing units were damaged." GCR and Associates, Inc., "Orleans Parish Mitigation Plan," p. 8, available at: <http://hazardmitigation.org/ThePlan.htm>
38. Transcript of CNN Coverage of Press Conference, Aug. 28, 2005, available at: <http://transcripts.cnn.com/TRANSCRIPTS/050828/bn.04.html>
39. Ultimate responsibility for the maintenance of parish jails and prisons lies with the parish itself: "The governing authority of each parish shall be responsible for the physical maintenance of all parish jails and prisons. In those parishes in which the governing authority operates the parish jail the governing authority shall pass all bylaws and regulations they may deem expedient for the police and good government of the jails and prisons being operated by the parish governing authority." LSA- R.S. 15:702
40. LSA-R.S. 15:704.
41. LSA-R.S. 15:705(A) (1).
42. LSA-R.S. 15:706(A) (1).
43. Letter from Joe Cook, Esq., to Sheriff Marlin N. Gusman, dated Septemeber 21, 2005.
44. *See* ACLU, "Sheriff Illegally Withholding Records on Orleans Parish Prison, ACLU Lawsuit Charges" (11/10/2005), available at: <http://www.aclu.org/prison/conditions/21218prs20051110.html>.
45. *See id.*

46. *Id.*
47. *Id.*
48. American Correctional Association, *Winter Conference Recap*, "Emergency Evacuations of Correctional Facilities," available at <http://www.aca.org/conferences/winter05/updates05.asp#5>.
49. ACA "Vision Statement" available at: http://www.aca.org/pastpresentfuture/doc_visionstatement2.pdf
50. Note 48, *supra*.
51. *Id.*
52. *Id.*
53. Jeffrey L. Pierson, "New Jersey jail benefits from emergency evacuation exercise," *Corrections Today*, Vol. 65, Issue 4, p. 86 (July 1, 2003).
54. *Id.*
55. Sampling performed and analyzed under contract to U.S. EPA and reported on the EPA EnviroMapper: <http://www.epa.gov/enviro/katrina/emkatrina.html>. Accessed April 17, 2006.
56. E. coli is considered to be a marker for the presence of other bacteria "such as those that cause typhoid, dysentery, hepatitis A, and cholera." See <http://www.epa.gov/katrina/fecal.html>, Accessed April 20, 2006.
57. See Note 55, *supra*.
58. See Note 56, *supra*.
59. *Id.*
60. See <http://www.epa.gov/katrina/testresults/water/index.html#flood>, accessed April 20, 2006.
61. This section describes what happened to detained children in Orleans Parish as Hurricane Katrina slammed into New Orleans. Direct quotations from children and staff members are used wherever possible. The stories are arranged in topical order. Because the experience of each child depended on his detention center of origin and where he ended up within OPP, we attempt - wherever possible - to note those differences.
62. Transcript of CNN Coverage of Press Conference, Aug. 28, 2005, available at: <http://transcripts.cnn.com/TRANSCRIPTS/050828/bn.04.html>; New Orleans Times Picayune, "Hurricane Katrina - the Approaching Storm," Web Edition, August 28, 2005; Baton Rouge Advocate, "Disaster Response Records. Interviews Reveal Some of Why Storm Relief Took So Long," p. 1, News, October 23, 2005.
63. Exceptions include: E.G., a 16 year-old boy, last received drinking water on Wednesday; D.C., a 15 year-old boy, received some drinking water, but could not say when; P.O., a 15 year-old boy, received water "on Tuesday only"; K.C., a 15 year-old boy, stated, "Captain Keith had a water bottle and let each of us have a sip... [He] was the only guard who would do anything for us."
64. Average daily temperatures in New Orleans: 8/21/2005: 85.3; 8/22/2005: 84.0; 8/23/2005: 84.7; 8/24/2005: 83.8; 8/25/2005: 85.5; 8/26/2005: 86.1; 8/27/2005: 86.7; 8/28/2005: 85.4; 8/29/2005: 80.7; 9/8/2005: 82.6; 9/9/2005: 82.7; 9/10/2005: 82.7; 9/11/2005: 81.3; 9/12/2005: 80.7; 9/13/2005: 80.3; 9/14/2005: 80.8; 9/15/2005: 82.9. University of Dayton, "Average Daily Temperature Archive," available at: <ftp://ftp.engr.udayton.edu/jkissock/gsod/LANEWORL.txt>.
65. It is not known whether this was in OPP or on the Broad Street Bridge. C.K.'s recollection is more consistent with other reports from the bridge.
66. Juvenile Jailhouse Rocked. Available at <http://www.aecf.org/publications/advocasey/winter99/juv/iuv.pdf>
67. *Unlocking the Future: Detention Reform in the Juvenile Justice System*, Coalition for Juvenile Justice Reform, 2003 Annual Report.
68. *Id.*
69. *Planning for Juvenile Detention Reform: A Structured Approach*. Available at <http://www.aecf.org/initiatives/jdai/download.htm>
70. *Unlocking the Future*.
71. *Juvenile Crime, Juvenile Justice (2001)*: Commission on Behavioral and Social Sciences and Education (Executive Summary). Available at <http://darwin.nap.edu/books/0309068428/html/7.html>
72. Note 67, *supra*.
73. *Id.*
74. *Id.*
75. *Consider the alternatives: Planning and Implementing Detention Alternatives*. Available at <http://www.aecf.org/initiatives/jdai/download.htm>, at p. 21.
76. See *id.* at 22.
77. Note 75, *supra*.

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This report would not have been possible without the involvement of some remarkable advocates who in spite of all their other work and their own personal lives were relentless in supporting the Juvenile Justice Project in this endeavor. Rather than shrink from the challenges of a post-Katrina New Orleans, they have embraced them and optimistically look disaster straight in the eye.

JJPL is especially indebted to our children, our clients. These young men and women told their stories and allowed us a window into their lives in an effort to influence the lives of others. We also are thankful to the many staff members and experts of varying agencies who spoke with us, despite fear and personal sacrifice.

We are also thankful to the hard work of those individuals who assisted with editing, revising and researching this report. A special thanks is necessary to Tom Jawetz and Eric Balaban of the American Civil Liberties Union, National Prison Project; the entire staff of Safe Streets/Strong Communities; Lauren Russell, JJPL Legal Intern; the staff of the Louisiana Office of Youth Development, we won't forget how you helped our children; the Orleans Parish Juvenile Court, your leadership was essential; and Valerie Downes at the Southern Poverty Law Center for her graphical genius.

Finally, for nearly nine months, we here in New Orleans have been trying to find our way back home - literally and figuratively. In many ways, New Orleans will never be the same. With this report, all involved hope that nostalgia gives way to change and reform. We enthusiastically hope to see in New Orleans' future unrecognizable institutions and landscapes manifesting our community's desire for better lives and more opportunities for ourselves, our families and our children. To everyone hard at work on this new reality, we say "Thank you."

Sincerely,



Derwyn D. Bunton, Associate Director
Juvenile Justice Project of Louisiana



TREATED LIKE TRASH

Juvenile Detention in New Orleans Before,
During, and After Hurricane Katrina



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Abstract: As Hurricane Katrina approached New Orleans in August 2005, approximately 150 youth were trapped in detention centers in and around the city. The city of New Orleans moved those held at the Youth Study Center to Templeman 5, a unit a Orleans Parish Prison (OPP). The city did not move any of the children already housed at OPP in the South White Detention Center. Thus, all of Orleans Parish's children in detention were inside OPP when Katrina made landfall. These young people left to face the flood waters were evacuated and placed in the custody of the Louisiana Office of Youth Development (OYD). OYD used two juvenile prisons, one near Baton Rouge and the other in Monroe, Louisiana, and other detention centers to house these youth, but not until days after the storm flooded the cells of the Katrina-trapped children. The Juvenile Justice Project of Louisiana, OYD, and the Orleans Parish Juvenile court moved quickly and together to ensure the evacuated children had access to legal representation, to the courts, and to their scattered families. This action resulted in the speedy reunification of nearly 100 youth with their families and the proper disposition of many other cases. This 26-page report follows the journey taken by these children during Katrina. The purposes are (a) to allow the children to tell their stories, (b) to identify the institutional failures that allowed these events to take place, and (c) to begin the discussion on how to reform the city's juvenile justice system.

Availability: Juvenile Justice Project of Louisiana, 1600 Oretha Castle Haley Boulevard, New Orleans, Louisiana 70113; Web site: www.jjpl.org or www.jjpl.org/PDF/treated_like_trash.pdf

Notes: Publication downloaded on the Internet